

58-83-401 Grounds for denial of license -- Disciplinary proceedings -- Termination of authority to prescribe -- Immediate and significant danger.

- (1) Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist order:
 - (a) shall be in accordance with Section 58-1-401; and
 - (b) includes:
 - (i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not approved by the board under Section 58-83-306; or
 - (ii) any other violation of this chapter.
- (2) The termination or expiration of a license under this chapter for any reason does not limit the division's authority to start or continue any investigation or adjudicative proceeding.
- (3)
 - (a) Because of the working business relationship between and among the online prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to comply with this chapter may depend in some respects on the actions of the others.
 - (b) It is possible that a particular action or inaction by the online prescriber, the Internet facilitator, or the online contract pharmacy could have the effect of causing the other licensed entities to be out of compliance with this chapter, and each entity may, therefore, be held accountable for any related party's non-compliance, if the party knew or reasonably should have known of the other person's non-compliance.
- (4)
 - (a) An online prescriber may lose the practitioner's professional license to prescribe any drug under this title if the online prescriber knew or reasonably should have known that the provisions of this chapter were violated by the online prescriber, the Internet facilitator, or the online contract pharmacy.
 - (b) It is not a defense to an alleged violation under this chapter that the alleged violation was a result of an action or inaction not by the charged party but by the related online prescriber, the online contract pharmacy, or the Internet facilitator.
- (5) The following actions may result in an immediate suspension of the online prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license, and each is considered an immediate and significant danger to the public health, safety, or welfare requiring immediate action by the division pursuant to Section 63G-4-502 to terminate the delivery of online pharmaceutical services by the licensee:
 - (a) online prescribing, dispensing, or facilitation with respect to:
 - (i) a person under the age of 18 years;
 - (ii) a legend drug not authorized by the division in accordance with Section 58-83-306; and
 - (iii) any controlled substance;
 - (b) violating this chapter after having been given reasonable opportunity to cure the violation;
 - (c) using the name or official seal of the state, the Utah Department of Commerce, or the Utah Division of Occupational and Professional Licensing, or their boards, in an unauthorized manner; or
 - (d) failing to respond to a request from the division within the time frame requested for:
 - (i) an audit of the website; or
 - (ii) records of the online prescriber, the Internet facilitator, or the online contract pharmacy.

Amended by Chapter 367, 2011 General Session